



Montoya, Darlene <dmontoya@nmag.gov>

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## Use Force Policy

3 messages

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**Bob Gore** <lawdog@plateautel.net>  
To: dmontoya@nmag.gov

Wed, Jan 25, 2017 at 1:44 PM

Below is our Use of Force Policy. If you have any questions or need anything else please contact me.

Thank You;

*Bob Gore* - Chief of Police

Logan Police Department

P.O. Box 7

Logan, NM 88426

[\(575\)487-2856](tel:(575)487-2856)

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**Use of Force policy to NM Arroney General.doc**  
2343K

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**Montoya, Darlene** <dmontoya@nmag.gov>  
To: Bob Gore <lawdog@plateautel.net>

Wed, Jan 25, 2017 at 1:57 PM

Chief Gore:

Thank you so much for your reply. The LEAB Subcommittee would also like to know is when was this policy last updated and/or revised, and how often your officers receive training on it? Please let me know and I will add it to the policy your provided.

[Quoted text hidden]

—  
Darlene Montoya, Administrator  
New Mexico Attorney General's Office  
408 Galisteo Street  
Santa Fe, New Mexico 87501  
[\(505\) 490-4854](tel:(505)490-4854)

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**Bob Gore** <lawdog@plateautel.net>  
To: "Montoya, Darlene" <dmontoya@nmag.gov>

Thu, Jan 26, 2017 at 12:05 PM

The policy was last reviewed and updated in July 2016. We had training at that time and have not had additional training on it since.



## LOGAN POLICE DEPARTMENT

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January 25, 2017

Ms. Darlene Montoya;

Below is a copy of our Use Of Force Policy. At this time we do not have a separate Officer Involved Shooting policy. It is included in the use of force. It should be pages 44-51.

Thank you,

*Bob Gore* - Chief of Police

Logan Police Department  
Logan, NM 88426  
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### **Department Order #10 Use of Force Logan Police Department**

- A. Officers are vested with the lawful authority to use force to protect the public's welfare; however, a careful balancing of all human interest is required. Officers are charged with the responsibility of weighing any other available means of apprehension and control before resorting to any use of force beyond command presence and verbal directions.
- B. Officers will use only that force that appears reasonably necessary, and only to the degree sufficient to overcome resistance to effectively bring an incident under control, while protecting the lives of the suspects or another.
- C. Deadly force is defined as the amount of force likely to cause death or serious bodily injury.
- D. Less-than-lethal force is defined as any amount of force other than that which is considered deadly force.
  - 1. An officer's weapons, to include firearms and non-lethal, which are drawn and displayed in a non-threatening manner, but which are more readily available if needed are not being used as a use of force but as a deterrent display of force. This display whether the use of force or display of force must be documented and articulated.

- E. Officers will only carry weapons that have been issued or approved by the Chief of Police. Only weapons made by a reputable manufacturer will be allowed. During an emergency or deadly force situation, officers are allowed to use anything available to them, as a weapon, to defend themselves or others.
- F. All officers are mandated to report all acts of use of force not resulting in great bodily harm or death. The officer and his/her supervisor will complete a Response to Resistance Report within 48 hours of the incident.
- G. Officers will only carry weapons that have been issued or approved by the department. Officers are issued an Electronic Control Device/Taser (hereafter referred to as Taser) as the minimum of one mandated non-lethal weapon to carry. An officer may in writing to the Chief and contingent upon the Chief's approval request to carry in lieu of the Taser an alternative non-lethal weapon. Any additional non-lethal weapons issued by the Chief must be worn as part of the uniform. (Examples would be a straight baton, expandable baton or pepper spray). Officers may carry a combination of non-lethal weapons approved by the Chief.
- H. Officers will maintain training requirements for all issued or approved weapons.
- I. Cowardice will not be condoned. Officers will not be required to desist in their efforts to make a lawful arrest when resistance is encountered.
- J. Officers are authorized to use non-deadly force techniques in the event that force becomes necessary to protect the officer or others from physical harm, to restrain or subdue a resisting individual, or to bring an unlawful situation safely and effectively under control.
  - 1. Any diversionary devices, including flash-bangs, shall be deemed less-than-lethal force. Any diversionary devices used in a deliberate action shall only be implemented after authorization is given by the Incident Command/Chief. Exceptions would be in exigent circumstances which require immediate response. Deliberate action shall be defined as any action taken, after review and consideration by whomever is deemed Incident Commander, should the Chief not be available. Immediate action shall be defined as any action that must be taken immediately and without delay to prevent injury and/or death of a person.
  - 2. Less-lethal munitions may be deployed to de-escalate a dangerous or potentially deadly situation, to control, detain or arrest a subject who is actively resisting, and to protect officers or other persons from harm; including the subject, from self-inflicted injury. Examples include but are not limited to: Riot control, anti-looting, Suicidal subjects, Animal control, diversionary tactics.

Unless immediately necessary to protect life, less-lethal munitions shall not be deployed by officers not trained to deploy less-lethal munitions.

Any officer deploying less-lethal munitions shall take into consideration the possibility of body trauma to the recipient. First aid and medical treatment must be provided to all subjects taken into custody who have been impacted by less-lethal munitions. When medical treatment is needed, it

shall be given immediately after the deployment, or as soon as practically possible to ensure the safety of the subject.

- K. Care should be given when employing chemical agents since they are difficult to localize, and have lingering effects. Persons subjected to chemical agents shall be given the chance to irrigate their eyes at the first safe opportunity.
- L. Deadly force will not be used to affect the arrest of a misdemeanor unless the situation develops into a felony involving the threatened or actual use of deadly force on the part of the suspect.
- M. Officers shall be authorized to use deadly force when it is reasonably believed that it is necessary to protect themselves or others from an immediate threat of death or serious bodily injury.
- N. In the use of deadly force incidents, the Department shall conduct both an administrative and criminal investigation of the incident. The chief will make the determination if the investigations should be done by an outside agency.
  - 1. Diligent care should be taken in the aiming and direction of fire while using firearms in any situation so as not to unnecessarily jeopardize innocent persons or property.
  - 2. A firearm aimed at a specific individual(s) is considered to be a use of force and will not be done unless there is justifiable cause to believe the use of deadly force is imminent. A firearm will not be used as a display of force unless there is justifiable cause to believe a situation may escalate to the use of deadly force. The display of force with a non-lethal weapon should be considered.
  - 3. Officers **will not** fire warning shots.
    - a. Officers will not fire at a moving vehicle.
    - b. Officers will not fire from a moving vehicle.
  - 4. Officers will not intentionally place themselves in harm's way as a method of justifying the use of deadly force with a firearm.
  - 5. Should an officer discharge his/her firearm while in the performance of his duty, and not be at department approved firing range activities, the officer shall notify his immediate supervisor. The supervisor, will in turn notify the Chief and report if any injury resulted from the incident.
  - 6. Any officer who discharges a firearm shall file a written report of the incident within eight (48) hours of the incident to the Chief unless the officer is hospitalized or injured and unable to do so. In this event the Chief may file the report or assign another officer to do so.
  - 7. When an incident occurs in which an officer seriously injures or kills another person the first supervisor to arrive at the scene will immediately advise the officer of his right to consult with counsel. Officers will not be required to give a written detailed statement or report for 48 after the incident. At that time the officer will provide a written report detailing all actions that lead to the use of force, and subsequently a use of force department report. The 48 hour time frame

is to allow the officer the time to make sure he/she is reporting the incident objectively and not based on emotions.

8. The officer's firearm shall be secured by the supervisor on scene and retained as evidence. The officer's firearm will be replaced by another firearm, the supervisor's if necessary, to provide stability to the officer and not make him feel as if he's done something wrong or should be ashamed.
  9. The officer shall be permitted to consult with counsel prior to any questioning or interview concerning the incident.
  10. Any witnesses are not necessarily entitled to legal representation.
  11. The officer involved shall relate a brief account to the supervisor, and to him only, prior to the arrival of the investigative personnel, so that the supervisor may brief ranking personnel who may require administrative information.
  12. The involved officer shall see a psychologist, contracted by the Village as soon as practical after the incident. The duration of the consultation shall be at the direction of the psychologist.
  13. The officer involved shall be placed on administrative leave with pay for a minimum of one (1) day. If, in the opinion of the individual's supervisor, additional administrative leave with pay is necessary, it may be granted up to five (5) working days, upon approval of the Village Administrator.
  14. The completed investigation shall be submitted to the District Attorney for evaluation and proper action, if required.
- O. All arrested persons shall be handcuffed prior to being placed in a patrol vehicle. The officer does have the discretion to not handcuff due to exigent circumstances as long as health and welfare of the arrestee is the primary consideration. A thorough pat down of his/her person shall be conducted to locate any items that could be used as a weapon or as a means of escape. If possible, the pat down should be conducted in the presence of another officer. If a pat down is conducted on a person of the opposite sex, a reasonable effort will be made have another officer present or if possible an officer of the same sex should conduct the pat down.
1. Any person under arrest or not shall be checked for weapons before being given access to a patrol vehicle.
  2. Any suspect/prisoner shall be handcuffed and/or restrained unless exigent circumstances exist and transported in a manner that maintains his health and safety as well as that of the transporting officer, and any other suspects/prisoners present. **Under no circumstance will a suspect/prisoner be "hog tied".**
- P. In all use of force incidents when an injury is sustained, no matter how small, EMS will be called to the scene to treat or evaluate the subject. If the subject refuses medical treatment the officer will obtain a copy of the refusal to include with the report. If treatment is given, the officer will obtain a copy of the EMS call report to include with the official report.

## USE OF ELECTRONIC CONTROL DIVICES (ECD or common name Taser)

(Updated 11/17/09)

- A. ECD's/Taser's (hereafter referred to as Taser), will be supplied by the Department. Under no circumstances will a non-issued Taser be carried or used by an officer except as outlined in paragraph "G" above. Use of a Taser will follow the guidelines as mentioned in paragraph "J" as a non-lethal weapon or tool.
- B. A Taser may used against a person/s who are actively resisting or exhibiting active aggression or to prevent individuals from harming themselves or others.
  - 1. When practical, the use of a Taser will be preceded by a verbal warning that force will be used if compliance is not obtained.
    - a. To justify any use of force the officer has to use the framework given us by the courts. Force cannot be used if a "*possible*" threat is all that exist. "A simple statement by an officer that he feared for his safety or the safety of others is not enough; there must be objective factors to justify such a concern." (Deorle v. Rutherford)  
  
*Beaver:* "*possibly*" had a weapon under him  
*Brooks:* could have fled in car  
*Brown:* beer "tankards" used as weapons
    - b. The facts or factors supporting the use of force **must** be specified in the report. If not in the report they do not exist!
    - c. Each separate "hit" with the Taser in either Drive Stun or with the probes is a separate use of force and must have the facts supporting that action delineated in the report. (If you trigger the Taser on an individual three times you have to support each instance as a separate use of force.)
  - 2. **Elevated Taser Application Risk** - The following factors, where apparent to involved officers, require elevated justification of Taser application. Under the following conditions, the risk of foreseeable direct or secondary injuries to the person is elevated. Therefore, officer's justification(s) for Taser application are also elevated. These evaluative risk factors can only be given consideration when the factors are reasonably perceived by the officer(s). In non-lethal force situations, when possible, officers should avoid using the Taser on:
    - a. Persons operating moving vehicle or machinery.
    - b. In any environment where the subject's fall could reasonably result in death, such as in an elevated structure or in water.
    - c. Obviously pregnant females.
    - d. Persons with obvious debilitating illnesses or the elderly.
    - e. Persons in wheelchairs.
    - f. Persons with pacemakers or other biomedical devices sensitive to electrical current.
    - g. Subjects who are passively resisting.
    - h. Children or persons under 80 pounds.
    - i. a person showing indications of *excited delirium*.

3. Tasers shall not be used in the following circumstances
  - a. In a punitive manner.
  - b. On a handcuffed or secured prisoner, absent overtly assaultive or fleeing behavior that cannot be reasonably dealt with less intensively.
  - c. On cooperative subjects
  - d. In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant, methamphetamine lab, gasoline, natural gas, or propane.).
4. Carrying and Storage
  - a. The Taser will be carried in an approved holster on the side of the body opposite to the service weapon.
  - b. The Taser will be carried fully armed with the safety on, in preparation for immediate use, when authorized.
  - c. Officers authorized to use a Taser shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's wires break during the engagement.
  - d. The spare cartridge shall be stored and carried in a manner consistent with training.
5. Maintenance
  - a. Each officer will perform a spark test at least once each week to ensure the Taser is fully charged and properly functioning. These spark test will be performed in a safe manner and away from people.
  - b. When an officer's DPM on the Taser reaches 20% or lower, it shall be replaced. The used DPM will be turned over to the department head to be used for training purposes.
  - c. Only agency approved battery sources will used in the Taser.
  - d. The Taser will not be left unattended unless properly stored.
6. Deployment
  - a. Prior to deployment, the deploying officer shall announce "Taser, Taser, Taser" to avoid sympathetic fire shootings.
  - b. In those incidents when an officer observes signs obvious signs of *excited delirium* in a subject, and use of the Taser is the only available option to prevent self injury he/she should arrange for the appropriate backup and medical personnel to be on scene prior to any deployment of the Taser, if practical. In these instances, a single Taser application should be made before the subject has been exhausted, not in the hope of gaining compliance, but rather to create a window of disablement during which officers can establish physical control over the subject.
  - c. Never aim the Taser at the eyes or face or head. If possible aim for the lower torso from the breast bone down.

- d. Officers will refrain from deploying the Taser in sensitive areas of the body.
- e. Upon deployment of the Taser, the officer shall energize the subject on time and re-evaluate the subject's response, prior to re-energizing. In any case, the Taser shall be energized the least number of times and no longer than necessary to accomplish the law enforcement objective.
- f. The Taser may also be used in certain circumstances in "drive-stun" mode. This involves pressing the unit against the appropriate area of the body consistent with training. Use the least number of times to accomplish compliance. (If it is not effective after 3 to 5 hits consider alternative options.) It is important to note that when the Taser is used in this manner it is:
  - 1. Primarily a pain compliance tool.
  - 2. Subject to the same deployment guidelines and restrictions as those of the Taser cartridge deployments.

C. Post Deployment Procedures

- 1. Notify a supervisor if one is not on scene.
- 2. Request an EMS unit to assess the level of injury sustained by the subject and to remove the darts.
- 3. Subjects who were exposed to a Taser shall be treated as follows:
  - a. If the probes penetrated the skin, only certified Taser users, paramedics, or emergency room staff may remove the probes as the earliest opportunity.
  - b. If the probes penetrated the skin on the face, head, neck, female breasts, or groin area, only medical staff at a medical facility may remove the probes.
  - c. If the subject displays signs of *excited delirium* prior to, or after being energized with a Taser, the subject must immediately receive medical treatment at a medical facility.
  - d. EMS/Officers shall provide first aid following removal of the probe by applying an antiseptic and a bandage to the probe sites as needed.
- 4. All deployments of the Taser, except for training situations, will require a:
  - a. case number,
  - b. a written report,
  - c. and a Response to Resistance Report completed with the Chief.

Updated and approved: 12/18/2013

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Bob Gore  
Chief

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Date



*Bob Gore* - Chief of Police

Logan Police Department

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**From:** Montoya, Darlene [mailto:[dmontoya@nmag.gov](mailto:dmontoya@nmag.gov)]

**Sent:** Wednesday, January 25, 2017 13:57

**To:** Bob Gore <[lawdog@plateautel.net](mailto:lawdog@plateautel.net)>

**Subject:** Re: Use Force Policy

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